

WILENTZ

—ATTORNEYS AT LAW—

WILENTZ, GOLDMAN & SPITZER, P.A.

Employment Law Update: Are You Subject to a Fair Workweek Law?

12/15/21

Legislation addressing fair workweek practices has been passed in cities across the country; neighboring Philadelphia and New York City are no exception. Both cities have enacted laws that require employers to provide employees with information regarding their work schedules. New Jersey may follow suit; the [New Jersey Fair Workweek Act](#) was proposed in 2020, but has remained in the Senate Labor Committee for review. The law would require employers to provide New Jersey workers in warehouses, retail, hospitality, and fast-food industry jobs with notice of their schedules, rest between shifts, the right to be offered more hours, and pay for on-call or canceled shifts. This blog reviews the requirements of Fair Workweek laws in neighboring cities and the penalties employers have faced for non-compliance.

Philadelphia and New York City Fair Workweek Laws

[Philadelphia's Fair Workweek Law](#) requires covered employers to provide workers in the service, retail, and hospitality industries with a predictable work schedule. Covered employers have 250 or more employees, including full-time, part-time, and temporary workers, and 30 or more locations worldwide, including chain establishments and franchises.

Philadelphia's Fair Workweek Law mandates covered employers to specifically:

- Provide a written 14-day advance notice of work schedules;
- Provide predictability pay for all employer initiated changes to the posted schedule;
- Allow employees to refuse to work additional hours not included in the posted schedule;
- Offer existing employees the right to additional work shifts before hiring new employees;
- Schedule 9 hours of rest between certain shifts, unless the employee provides written consent and is paid a \$40 premium.

Similarly, [New York City's Fair Workweek Law](#) requires that employers of fast-food workers:

- Give their employees 14 days of advance notice for each weekly schedule;
- Get employee consent for schedule changes and pay schedule change premiums for certain schedule changes;
- Offer newly available shifts to current employees before hiring new employees;
- Address most job performance problems through progressive discipline; and
- Give layoffs to employees when the business is suffering financially or closes, and prioritize over current employees for available shifts if the business begins hiring again.

The New York City law also prohibits employers from scheduling fast-food workers for back-to-back closing and opening shifts with less than 11 hours between the shifts, unless the worker provides written consent and, in addition, is paid a \$100 premium.

Employer Penalties

The penalty for violating these laws can be steep. For example, the Office of Worker Protection of [Philadelphia ordered Target to pay over \\$22,000 to its employees](#) for violating the Fair Workweek Law. The store violated the law by failing to post employee work schedules 14 days in advance. Earlier this year, [New York City sued](#)

[Chipotle Mexican Grill](#), alleging the chain owed more than \$150 million in damages to workers for violating the city's Fair Workweek law in dozens of locations, in addition to \$300 million in civil penalties.

We will continue to monitor the status of the New Jersey Fair Workweek Act.

Takeaway: Employers should ensure compliance with any Fair Workweek law at their business locations. Employers with questions about the Fair Workweek laws and implementation of practices to stay compliant can contact [Tracy Armstrong](#) or another member of the Wilentz [Employment Law](#) Team.

Attorney

- Tracy Armstrong

Practice

- Employment Law